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EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 27th July, 1966:—

BILL No. XIII OF 1966

A Bill further to amend the Special Marriage Act, 1954.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. This Act may be called the Special Marriage (Amendment) Act, 1966. Short title.

43 of 1954.

2. In section 23 of the Special Marriage Act, 1954 (hereinafter referred to as the principal Act), in clause (*a*) of sub-section (*1*), for the words, figures, brackets and letters "in section 27 [other than the grounds specified in clauses (*i*) and (*j*) thereof]", the words, brackets and figures "in sub-section (*1*) of section 27" shall be substituted. Amendment of section 23.

Amendment of section 27

3. Section 27 of the principal Act shall be re-numbered as sub-section (*1*) thereof and,—

(*a*) in sub-section (*1*) as so re-numbered,—

(*i*) the word "or" at the end of clause (*h*) shall be omitted;

(*ii*) clauses (*i*) and (*j*) shall be omitted;

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Subject to the provisions of this Act and to the rules made thereunder, either party to a marriage, whether solemnized before or after the commencement of the Special Marriage (Amendment) Act, 1966, may present a petition for divorce to the district court on the ground—

(*i*) that there has been no resumption of cohabitation as between the parties to the marriage for a period of two years or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(*ii*) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of two years or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.".

STATEMENT OF OBJECTS AND REASONS

Under the Special Marriage Act, 1954, a party to a marriage solemnized thereunder, who has obtained a decree for judicial separation or a decree for restitution of conjugal rights, may seek divorce on the ground that the other party to the marriage has not resumed cohabitation for a period of two years or upwards after the passing of a decree for judicial separation or, as the case may be, has failed to comply with the decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree for such restitution. These grounds are not, however, available to the party against whom such a decree has been obtained. Cases have occurred in which the person in whose favour such decree has been passed has deliberately refrained from applying for divorce, although there has not been resumption of cohabitation or restitution of conjugal rights for a period of two years or more after the passing of such decree. In such cases, though there has been a *de facto* cesser of matrimonial relationship between the parties, the marriage tie—*vinculam juris*—subsists nonetheless between them with the result that the party in whose favour such decree is passed is, by his intentional default, able to prevent the other party from going in for a second marriage. This causes considerable hardship. It is, therefore, considered necessary to amend the Special Marriage Act conferring the right to apply for divorce on either party to a decree for judicial separation or for restitution of conjugal rights.

2. The Bill seeks to achieve the above object.

G. S. PATHAK.

NEW DELHI;
The 9th July, 1966.

B. N. BANERJEE,
Secretary.

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